

AMENDED IN ASSEMBLY JUNE 10, 2014

**SENATE BILL**

**No. 1171**

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**Introduced by Senator Hueso**

February 20, 2014

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An act to amend Section 2079.13 of, and to amend the heading of Article 2 (commencing with Section 2079) of Chapter 3 of Title 6 of Part 4 of Division 3 of, the Civil Code, relating to real property transactions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1171, as amended, Hueso. Real property transactions: agents: obligations.

Existing law requires listing and selling agents, as defined, to provide the seller and buyer in a residential real property transaction, *including a leasehold interest*, with a disclosure form, as prescribed, containing general information on real estate agency relationships. Existing law also requires the listing or selling agent to disclose to the buyer and seller whether he or she is acting as the buyer's agent exclusively, the seller's agent exclusively, or as a dual agent representing both the buyer and the seller.

This bill would extend these disclosure requirements to include transactions involving commercial property, as defined, *including a leasehold interest*.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. The heading of Article 2 (commencing with Section 2079) of Chapter 3 of Title 6 of Part 4 of Division 3 of the Civil Code is amended to read:

Article 2. Duty to Prospective Purchaser of Real Property

SEC. 2. Section 2079.13 of the Civil Code is amended to read:  
2079.13. As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) “Agent” means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.

(b) “Associate licensee” means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker’s agent in connection with acts requiring a real estate license and to function under the broker’s supervision in the capacity of an associate licensee.

The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions.

(c) “Buyer” means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. “Buyer” includes vendee or lessee.

(d) “Dual agent” means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction.

1 (e) “Listing agreement” means a contract between an owner of  
2 real property and an agent, by which the agent has been authorized  
3 to sell the real property or to find or obtain a buyer.

4 (f) “Listing agent” means a person who has obtained a listing  
5 of real property to act as an agent for compensation.

6 (g) “Listing price” is the amount expressed in dollars specified  
7 in the listing for which the seller is willing to sell the real property  
8 through the listing agent.

9 (h) “Offering price” is the amount expressed in dollars specified  
10 in an offer to purchase for which the buyer is willing to buy the  
11 real property.

12 (i) “Offer to purchase” means a written contract executed by a  
13 buyer acting through a selling agent—~~which~~ *that* becomes the  
14 contract for the sale of the real property upon acceptance by the  
15 seller.

16 (j) “Real property” means any estate specified by subdivision  
17 (1) or (2) of Section 761 in property—~~which~~ *that* constitutes or is  
18 improved with one to four dwelling units, any commercial property  
19 specified in subdivision (a) or (b) of Section 1101.3, any leasehold  
20 ~~in this type~~ *these types* of property exceeding one year’s duration,  
21 and mobilehomes, when offered for sale or sold through an agent  
22 pursuant to the authority contained in Section 10131.6 of the  
23 Business and Professions Code.

24 (k) “Real property transaction” means a transaction for the sale  
25 of real property in which an agent is employed by one or more of  
26 the principals to act in that transaction, and includes a listing or  
27 an offer to purchase.

28 (l) “Sell,” “sale,” or “sold” refers to a transaction for the transfer  
29 of real property from the seller to the buyer, and includes exchanges  
30 of real property between the seller and buyer, transactions for the  
31 creation of a real property sales contract within the meaning of  
32 Section 2985, and transactions for the creation of a leasehold  
33 exceeding one year’s duration.

34 (m) “Seller” means the transferor in a real property transaction,  
35 and includes an owner who lists real property with an agent,  
36 whether or not a transfer results, or who receives an offer to  
37 purchase real property of which he or she is the owner from an  
38 agent on behalf of another. “Seller” includes both a vendor and a  
39 lessor.

1 (n) “Selling agent” means a listing agent who acts alone, or an  
2 agent who acts in cooperation with a listing agent, and who sells  
3 or finds and obtains a buyer for the real property, or an agent who  
4 locates property for a buyer or who finds a buyer for a property  
5 for which no listing exists and presents an offer to purchase to the  
6 seller.

7 (o) “Subagent” means a person to whom an agent delegates  
8 agency powers as provided in Article 5 (commencing with Section  
9 2349) of Chapter 1 of Title 9. However, “subagent” does not  
10 include an associate licensee who is acting under the supervision  
11 of an agent in a real property transaction.